

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

The purpose of these amendments is to comply with current federal regulations and to provide for administrative simplification for both the Department and for Medicaid providers that wish to participate in this program. These amendments implement the following changes:

1. Set the previous hospital year as the base year for calculating the hospital incentive payment.
2. Permit an alternate option for children’s hospitals to participate, using a specially assigned number by the Centers for Medicare and Medicaid Services (CMS).
3. Clarify and update the application, agreement and payment processes, including that dually eligible hospitals will report to CMS.

Any interested person may make written comments on the proposed amendments on or before April 23, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because these rules are consistent for all eligible providers and hospitals in accordance with federal law. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 79.16(1) as follows:

**79.16(1) State elections.** In addition to the statutory provisions in ARRA Section 4201, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the Federal Register, Vol. 75, No. 144, on July 28, 2010 as amended to September 4, 2012. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

*a.* For purposes of the term “hospital-based eligible professional (EP)” as set forth in 42 CFR Section 495.4 as amended to July 28, 2010 September 4, 2012, the department elects the calendar year preceding the payment year as the period used to calculate gather data to determine whether or not an eligible professional is “hospital-based” for purposes of the regulation.

*b.* For purposes of calculating patient volume as required by 42 CFR Section 495.306 as amended to July 28, 2010 September 4, 2012, the department has elected that eligible providers may elect to use either:

(1) The patient encounter methodology found in 42 CFR Section 495.306(c) as amended to July 28, 2010 September 4, 2012, or

(2) The patient panel methodology found in 42 CFR Section 495.306(d) as amended to July 28, 2010 September 4, 2012.

*c.* For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to July 28, 2010 September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to ~~July 28, 2010~~ September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

ITEM 2. Amend paragraph **79.16(2)“b”** as follows:

b. The provider must be one of the following:

- (1) No change.
- (2) An acute care hospital, ~~defined as a health care facility where the average length of stay is 25 days or fewer, which has a CMS certification number with the last four digits in the series 0001-0879 or 1300-1399 as defined in 42 CFR Section 495.302 as amended to September 4, 2012.~~
- (3) A children’s hospital, ~~defined as a separately certified children’s hospital, either freestanding or a hospital-within-hospital, that predominately treats individuals under 21 years of age and has a CMS certification number with the last four digits in the series 3300-3399 as defined in 42 CFR Section 495.302 as amended to September 4, 2012.~~

ITEM 3. Amend subparagraph **79.16(2)“c”(2)** as follows:

(2) An eligible professional must have at least 30 percent of the professional’s patient volume ~~covered by~~ enrolled in Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a “pediatrician” is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification.
2. When a professional has at least 50 percent of patient encounters in a federally qualified health center or rural health clinic, patients who were furnished services either at no cost or at a reduced cost based on a sliding scale or ability to pay, patients covered by the HAWK-I program, and Medicaid members may be counted to meet the 30 percent threshold.

ITEM 4. Amend subrule 79.16(3) as follows:

**79.16(3) Application and agreement.** Any eligible provider ~~who wants~~ that intends to participate in the Iowa electronic health record incentive program must declare the intent to participate by registering with the ~~National Level Repository~~ CMS Registration and Attestation Web site, as developed by the Centers for Medicare and Medicaid Services (CMS). CMS will notify the department of an eligible provider’s application for the incentive payment.

a. Upon receipt of an application for participation in the program, the department will contact the applicant with instructions for accessing the Iowa EHR Medicaid incentive payment program section of the Iowa Medicaid portal access (IMPA) administration Web site at <https://secureapp.dhs.state.ia.us/imp/> www.imeincentives.com. The applicant shall use the Web site to:

- (1) Attest to the applicant’s qualifications to receive the incentive payment, and
- (2) Digitally sign Form 470-4976, Iowa Electronic Health Record Incentive Program Provider Agreement.

b. For the second year of participation, ~~the eligible provider~~ providers must submit meaningful use and clinical quality measures to the department, either through attestation or electronically as required by the department.

c. No change.

ITEM 5. Amend subrule 79.16(4) as follows:

**79.16(4) Payment.** The department shall issue the incentive payment only after confirming that all eligibility and performance criteria have been satisfied. Payments will be processed and paid to the tax identification number designated by the applicant. The department will communicate the payment or denial of payment to the ~~National Level Repository~~ CMS Registration and Attestation Web site.

a. The primary communication channel from the department to the provider will be the IMPA Iowa EHR Medicaid incentive payment administration Web site. If the department finds that the applicant is ineligible or has failed to achieve the criteria necessary for the payment, the department shall notify the provider through the Web site. Providers shall access the Web site to determine the status of their payment, including whether the department denied payment and the reason for the denial.

b. No change.